

which antedates the Federal Rules—and a few random notes touch on this problem from the viewpoint of the answer. As far as the complaint is concerned, its evidence-control function is completely overlooked. In addition, the syllogistic relationship between fact pleading and rules of law is only obliquely referred to.<sup>5</sup>

The format deserves commendation. Pages are numbered on their lower outside corners in heavy boldface type, making it extremely easy to locate desired material from a standing position, a feature which every ambulatory instructor will appreciate. A flap for pocket parts is included on the inside of the rear cover. While no mention is made of the use to which this will be put, one hopes that it will contain new material of all types as it becomes available, rather than merely supplements of particular state rules or statutes. This reviewer has always felt that pocket parts can serve a valuable purpose by keeping a casebook up to date until a new edition is called for, and was delighted to find some evidence, at least, of that possibility.

A recent contributor to a legal periodical attempted to show that reviews of casebooks by teachers, particularly those in the same field, are characterized by either damnation by faint praise or excessive adulation. Although that observation was made through the medium of a humorous sample review, the writer was not flirting overmuch with truth. Too often, the reviewer seems to be proceeding from the assumption that, had he compiled the volume under scrutiny, it would have been a far better effort. On the other hand, in avoiding Charybdis, some reviewers scrape their bows on Scylla by confining their remarks to approbative platitudes, possibly in the hope that some future offering of their own may receive like treatment. That neither approach is equitable or useful is a truism, and it is hoped that this review has touched upon the good and the bad without overemphasizing either. In the last analysis, every casebook is no better or worse than the extent of its adaptability to the needs of its users, and it is in the classroom rather than on these pages that its ultimate utility will be determined.

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CHURCH, STATE AND FREEDOM. By Leo Pfeffer. Boston: The Beacon Press, 1953. Pp. xvi, 675. \$10.

MR. PFEFFER has written a lengthy, extremely interesting, and often provocative study. He finds that religious and secular institutions have competed for and struggled over human destiny throughout recorded history. Whatever the particular manifestations of the struggle, each has sought to dominate the other and use it for its own purposes. In the Europe of 1787, all traces of the

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5. See BLISS, *CODE PLEADING* 230 (3d ed. 1894).

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theocratic state had disappeared. At the same time, the great and absolutely novel experiment of complete separation of church and state was undertaken by our national Government. Yet in Europe no counter-adoption of the principle of the mutual independence of religion and political government replaced the discredited theory of the theocratic state. Where there have been temporary periods of church supremacy in the church-state struggle, in the overwhelming majority of instances the state has dominated and used the church. As Mr. Pfeffer puts it, that relationship "was the history of the unscrupulous use of religion by secular powers to promote their purposes and policies, and the willing acceptance of that role by the guardians of religion in exchange for the favors and mundane benefits . . . conferred in exchange for religion's invaluable service."<sup>1</sup>

The author finds that the experiment characterized by the words "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof"<sup>2</sup> was uniquely American. Those who attempted to implement the principle of separation and freedom conceived it as a unitary one, and the experience of other countries clearly indicates that religious freedom is most secure where church and state are separated. The author also believes that experience elsewhere leads to these conclusions: anti-religious and atheistic governments find little difficulty in allying with churches; a church invariably gives up, in part at least, religious freedom when it receives special state favors; in lands where a church is aligned with an exploiting class, revolutionary governments will impose particularly severe restrictions on religious freedom.

Mr. Pfeffer maintains that the factors contributing most to the acceptance of the principle of separation in America were the English Act of Toleration of 1689, the multiplicity of sects in the Colonies, the negligible number of people affiliated with churches in early America, the tradition of Williams and Penn, the social contract theory, the Great Awakening, the influence of deism and rationalism, and, above all, the unmistakable indication in the minds of the framers of the Constitution that "*the independence of religion and government was the alpha and omega of democracy and freedom.*"<sup>3</sup> This separation, predicated on the concept that religion is outside the jurisdiction of government, was constructed to be as absolute as humanly possible. The author feels that all attempts to interpret the First Amendment as meaning anything but absolute separation would be contrary to the intent of Jefferson, Madison, and the other architects of religious freedom in America.

The most flagrant abusers of the notion of the independence of religion from government, particularly in present-day America, according to Mr. Pfeffer, are the various spokesmen of the Roman Catholic Church. They attack in the areas of education, courts, and, to a degree, hospitals and

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1. P. 27.

2. U.S. CONST. AMEND I.

3. P. 114 (emphasis added).

entertainment. "Nevertheless the American people have by and large been faithful to the obligation placed on them . . . and religious freedom has been preserved. Under this system of the separation of church and state . . . religious freedom has achieved in the United States a high estate unequalled anywhere else in the world: History has justified the great experiment and has proved the proposition on which it was based, that complete separation of Church and State is best for church and best for state, and secures freedom for both."<sup>4</sup>

Mr. Pfeffer offers much of value and interest for those interested in the detailed workings of American institutions. He presents in an outstanding manner the Jeffersonian viewpoint on liberty; he has an excellent historical treatment of the development of the separation principle in the various States; his analysis of the renewal of this conflict as is evidenced in the Supreme Court's decisions in the *Everson*,<sup>5</sup> *McCullum*,<sup>6</sup> and *Zorach* <sup>7</sup> cases is particularly noteworthy; and his presentation of the specific beliefs of the various religious sects and denominations as they bore on the whole problem of church-state relations is an achievement.

Mr. Pfeffer ranges in time from antiquity to the contemporary and in space from one corner of the globe to the other. And he offers a thorough and exhaustive documentation for each and every suggestion made in the main body of his text. Unfortunately, however, one gets the impression that there are times when "the gentleman offereth too much" in pursuance of certain of his pet notions. Yet this reviewer would like to go on record as voicing his own appreciation for the author's lucid restatement of what is an undeniable and sustaining tenet of American democracy.

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RENEWING OUR CITIES. By Miles L. Colean. New York: The Twentieth Century Fund, 1953. Pp. x, 181. \$2.50.

CITY planners and other students of urban problems long have searched for remedies for the ills of slums and blight that infect our cities. For almost two decades redevelopment has been advocated as an effective panacea. The redevelopment process involves a local public agency's purchasing slum land, replanning the area, demolishing the existing structures, and selling the land to private enterprise for rebuilding in accord with modern standards. Until recently, redevelopment was not economically feasible, primarily because of the

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4. P. 605.

5. *Everson v. Board of Education*, 330 U.S. 1 (1947).

6. *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203 (1948).

7. *Zorach v. Clauson*, 343 U.S. 306 (1952).

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